



FEDERAL ELECTION COMMISSION
Washington, DC 20463

DISSENTING OPINION IN ADVISORY OPINION 1985-18

of

COMMISSIONER FRANK P. REICHE

In Advisory Opinion 1985-18, the Federal Election Commission approved the commencement of Federal election activity by the Automobile Club of Michigan Political Action committee (ACPAC), a committee that had previously limited its activity to participation in State and local campaigns. ACPAC did not register as a political committee under the Federal Election Campaign Act in the apparent belief that such registration was not required where a committee was not actively engaged in Federal elections, even though the materials originally soliciting contributions to ACPAC when it was formed in 1981 alluded to possible Federal election activity and thus may have led potential contributors to believe that ACPAC would actually engage in such activities.

The intent of ACPAC's officers (not to participate initially in Federal elections), while important, may not be dispositive when, as in this case, that intent is not communicated to the contributors. Thus, it is arguable that ACPAC should have already registered as a political committee under the Federal Election Campaign Act because its solicitation materials implied that its activities would encompass Federal as well as State and local elections. Although the solicitation materials are unclear as to the precise scope of ACPAC activity, the Committee did not in fact participate in Federal elections, as its annual reports to contributors indicate.

In view of the confusion surrounding the proposed versus the actual activity of the Committee, I do not believe that the interests of the Commission nor the Committee are well served by a finding that the Committee was in fact a Federal election political committee that should have registered with the Commission within 10 days of its establishment in 1981. This Opinion should not, however, be viewed as diminishing in the slightest the importance of the perceptions of potential contributors concerning campaign activities of donee committees when the former consider making contributions to the political committees of their choice.